

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

XR COMMUNICATIONS, LLC, dba
VIVATO TECHNOLOGIES,

Plaintiff,

v.

AT&T SERVICES INC.; AT&T MOBILITY
LLC; and AT&T CORP.,

Defendants,

NOKIA OF AMERICA CORPORATION and
ERICSSON INC.,

Intervenors,

XR COMMUNICATIONS, LLC, dba
VIVATO TECHNOLOGIES,

Plaintiff,

VERIZON COMMUNICATIONS, INC.,
CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS,

Defendants,

NOKIA OF AMERICA CORPORATION and
ERICSSON INC.,

Intervenors,

Case No. 2:23-cv-00202-JRG-RSP
(Lead Case)

JURY TRIAL DEMANDED

Case No. 2:23-cv-00203-JRG-RSP
(Member Case)

XR COMMUNICATIONS, LLC, dba
VIVATO TECHNOLOGIES,
Plaintiff,

v.

T-MOBILE USA, INC.,

Defendants,

NOKIA OF AMERICA CORPORATION and
ERICSSON INC.,

Intervenors,

Case No. 2:23-cv-00204-JRG-RSP
(Member Case)

**DECLARATION OF REZA MIRZAIIE IN SUPPORT OF MOTION FOR PARTIAL
SUMMARY JUDGMENT OF NO INEQUITABLE CONDUCT**

I, Reza Mirzaie, declare and state as follows:

1. I am a member of the State Bar of California, an attorney at the firm of Russ, August & Kabat, and counsel of record for Plaintiff XR Communications, LLC, in the above-captioned actions. I have personal knowledge of the facts set forth herein, and if called upon to testify, I could and would testify competently thereto.

2. Attached as **Exhibit 1** is a true and correct copy of the 2006 Power of Attorney for Brooks for the '329 Application.

3. Attached as **Exhibit 2** is a true and correct copy of the Vivato Networks Security Interest Assignment to Aequitas Capital Attaching Commercial Security Agreement (XR-EDTX1-00000052).

4. Attached as **Exhibit 3** is a true and correct copy of the Vivato Networks Assignment to Vivato Networks Holdings (XR-EDTX1-00000069).

5. Attached as **Exhibit 4** is a true and correct copy of the Vivato Networks Business Loan Agreement with Aequitas Capital Management (XR-EDTX1-00052610).

6. Attached as **Exhibit 5** is a true and correct copy of the Aequitas Capital

Management Assignment to Aequis Equipment Finance Attaching Loan Assignment and Acceptance with Vivato Networks (XR-EDTX1-00000074).

7. Attached as **Exhibit 6** is a true and correct copy of the Aequis Equipment Finance Assignment to XR Communications (XR-EDTX1-00000119).

8. Attached as **Exhibit 7** is a true and correct copy of excerpts from January 2, 2008 Catcher Holdings Prospectus (XR-EDTX1-00052494).

9. Attached as **Exhibit 8** is a true and correct copy of the Vivato Networks Assignment to Aequis Equipment Finance Attaching Judgment of Foreclosure, and Catcher-Vivato Networks Holdings License Agreement and Assignment (XR-EDTX1-00000077).

10. Attached as **Exhibit 9** is a true and correct copy of the Catcher 8-K Filing on April 1, 2008.

11. Attached as **Exhibit 10** is a true and correct copy of the Request for Withdrawal of Edward Brooks for the '329 Application (XR-EDTX1-00052244).

12. Attached as **Exhibit 11** is a true and correct copy of the Notice of Abandonment for '329 Application.

13. Attached as **Exhibit 12** is a true and correct copy of Aequis's Foreclosure Complaint in *Aequis Equipment Finance v. Vivato Networks, et. al.*, D. OR. Case No. 3:08-cv-00750.

14. Attached as **Exhibit 13** is a true and correct copy of the Order Granting Summary Judgment for Aequis in *Aequis Equipment Finance v. Vivato Networks, et. al.*, D. OR. Case No. 3:08-cv-00750.

15. Attached as **Exhibit 14** is a true and correct copy of the August 28, 2009 Petition to Revive '329 Application by Carl Schwedler (XR-EDTX1-00052763).

16. Attached as **Exhibit 15** is a true and correct copy of the First Decision Denying

Revival of '329 Application (XR-EDTX1-00052810).

17. Attached as **Exhibit 16** is a true and correct copy of the November 18, 2009 Request for Reconsideration of Denial of Petition to Revive '329 Application by Carl Schwedler (XR-EDTX1-00052322).

18. Attached as **Exhibit 17** is a true and correct copy of the Second Decision Denying Revival of '329 Application (XR-EDTX-00090655).

19. Attached as **Exhibit 18** is a true and correct copy of the November 8, 2010 Petition for Revival of '329 Application by Daniel Burke (XR-EDTX1-00052371).

20. Attached as **Exhibit 19** is a true and correct copy of the Notice of Acceptance of Power of Attorney for Burke and Decision Granting Revival of '329 Application (XR-EDTX1-00052433).

21. Attached as **Exhibit 20** is a true and correct copy of the XR-Aequitas Patent Purchase Agreement — ***CONFIDENTIAL, FILED UNDER SEAL*** (XR-EDTX1-00049331).

22. Attached as **Exhibit 21** is a true and correct copy of excerpts from Carl Schwedler's July 8, 2022 Deposition Transcript (XR-EDTX1-00052637).

23. Attached as **Exhibit 22** is a true and correct copy of excerpts from Carl Schwedler's December 5, 2022 Deposition Transcript (XR-EDTX-00090427).

24. Attached as **Exhibit 23** is a true and correct copy of excerpts from Daniel Burke's July 26, 2022 Deposition Transcript (XR-EDTX1-00052261).

25. Attached as **Exhibit 24** is a true and correct copy of excerpts from Daniel Burke's January 20, 2023 Deposition Transcript (XR-EDTX-00091733).

26. Attached as **Exhibit 25** is a true and correct copy of excerpts from Edward Brooks's July 6, 2022 Deposition Transcript (XR-EDTX1-00052124).

27. Attached as **Exhibit 26** is a true and correct copy of excerpts from Edward Brooks's

January 5, 2023 Deposition Transcript (XR-EDTX-00091501).

28. Attached as **Exhibit 27** is a true and correct copy of excerpts from Gary Haycox's July 7, 2022 Deposition Transcript (XR-EDTX1-00052437).

29. Attached as **Exhibit 28** is a true and correct copy of excerpts from Allan Rakos' December 8, 2022 Deposition Transcript (XR-EDTX-00090691).

30. Attached as **Exhibit 29** is a true and correct copy of excerpts from Nicholas Godici's April 25, 2025 Expert Report.

31. Attached as **Exhibit 30** is a true and correct copy of excerpts from Nicholas Godici's August 26, 2022 Deposition Transcript (XR-EDTX1-00054314).

32. Attached as **Exhibit 31** is a true and correct copy of excerpts from AT&T's Sixth Supplemental Responses and Objections to Plaintiff's First Set of Common Interrogatories (Nos. 1-11(now 15)), served April 4, 2025.

33. Attached as **Exhibit 32** is a true and correct copy of USPTO's Decision Granting Withdrawal of Edward Brooks for the '329 Application (XR-EDTX1-00052246).

34. Attached as **Exhibit 33** is a true and correct copy of excerpts from Christopher Ambrose's July 7, 2022 Deposition Transcript (XR-EDTX1-00052028).

35. Attached as **Exhibit 34** is a true and correct copy of excerpts from Christopher Ambrose's December 19, 2022 Deposition Transcript (XR-EDTX-00090920).

36. Attached as **Exhibit 35** is a true and correct copy of the April 28, 2008 letter from Brooks to Ambrose (XR-EDTX-00091226-1235).

37. Attached as **Exhibit 36** is a true and correct copy of excerpts from Adrian Chraplyvy's February 27, 2023 Deposition Transcript (XR-EDTX-00041244).

38. Attached as **Exhibit 37** is a true and correct copy of excerpts from Kai Hansen's February 13, 2023 Deposition Transcript (XR-EDTX-00040541).

39. Attached as **Exhibit 38** is a true and correct copy of excerpts from Thomas Sidley's March 10, 2023 Deposition Transcript (XR-EDTX-00094435).

40. Attached as **Exhibit 39** is a true and correct copy of *Freshub, Inc. v. Amazon.com, Inc.*, 6:21-CV-00511-ADA, Dkt. 274 (W.D. Tex. Aug. 2, 2021).

41. Attached as **Exhibit 40** is a true and correct copy of the Rebuttal Expert Report of Nancy J. Linck, JD, PhD, executed May 21, 2025.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 4, 2025 at Los Angeles, CA.

/s/ Reza Mirzaie

Reza Mirzaie